

SENATE BILL 4077

By Roller

AN ACT to amend Tennessee Code Annotated, Title 30,  
Chapter 2; Title 47, Chapter 18 and Title 47,  
Chapter 50, relative to certain estates.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 50, is amended by adding the following as a new, appropriately designated section:

Section \_\_\_\_.

Any assignment by a person of all or any portion of the person's interest in the estate of a deceased person shall be void unless the assignment is in writing, is signed by the individual who is the assignor, is affirmed before a notary public or other official authorized to take oaths, and at the time of execution, contains the name of the decedent and the county in which the probate proceeding is pending.

SECTION 2. Tennessee Code Annotated, Section 30-2-301(b), is amended by adding the following subdivision:

(6) In the event that the affidavit filed by the personal representative pursuant to subdivision (b)(3) states that one (1) or more legatees or distributees cannot be identified or located, then the following provisions shall be applicable:

(A) A person or entity may file a notice with the clerk's office that provides the following information:

(i) The name, current mailing address and actual physical address identifying any legatee or distributee who cannot be identified; or

(ii) The current mailing address and actual physical address for any known legatee or distributee who the personal representative states cannot be located.

(B) The person or entity filing the notice set forth in subdivision (b)(6)(A) shall be entitled to a reasonable fee to be set by the court for each legatee or distributee for whom complete and accurate information is submitted in accordance with subdivision (b)(6)(A). In the event that more than one (1) person submits complete and accurate information to the clerk, then the person who files the first submission received by the clerk shall receive the fee provided by this subdivision. The fee shall be an administrative expense of the estate and shall be entitled to priority over the claims of creditors.

(C) The person or entity filing the notice provided by subdivision (b)(6)(A) shall not be entitled to any other compensation from any person or entity, including any legatee or distributee, for providing the information to the legatee or distributee or to the clerk.

(D)

(1) Any assignment by a legatee or distributee of the legatee or distributee's interest, or any portion thereof, in an estate shall be invalid unless the assignment is executed after the date set forth in subdivision (b)(1) and the assignment reflects on its face the actual value of the consideration paid or delivered by the assignee to the legatee or distributee for that interest. In no event shall the provision of information regarding the estate, the decedent or the assets of the estate, or the procurement of legal services or other assistance in presenting the legatee's or distributee's claim or interest to the court in which the

probate proceeding may be pending, be deemed consideration for that assignment.

(2) Any assignment of all or any interest of a legatee or distributee of the legatee or distributee's interest in an estate shall be effective only to the extent of the dollar amount of consideration actually stated on the face of the assignment.

(3) This subdivision (6)(D) shall not apply to an assignment by a legatee or distributee whose name and correct address are stated in the petition for appointment of a personal representative filed with the court executed after the date of the receipt by the legatee or distributee of that petition.

SECTION 3. Tennessee Code Annotated, Section 47-18-104(b), is amended by adding the following as subdivision (45):

(45)

(A) Except as provided in subdivision (b)(45)(B), engaging the business of locating unknown heirs in the state of Tennessee, and:

(i) Failing to disclose the name of the decedent, the court in which the probate proceeding is pending, and if known, the name and contact information for the personal representative or legal counsel prior to accepting an assignment of all or any portion of the interest of the heir in the estate;

(ii) Failing to disburse all funds to the heir within five (5) days of receipt of the funds from the personal representative, court or other payee;

(iii) Failing to maintain a separate trust account for the receipt of any funds from the estate and the disbursement of the funds to heirs; or

(iv) Accepting a contribution or fee exceeding the lesser of ten percent (10%) of the heir's interest in the estate or one thousand dollars (\$1,000).

(B) The following persons shall not be considered unknown heir locators for the purposes of this subdivision (b)(45):

(i) Any attorney-at-law of this state;

(ii) Any person acting pursuant to any order or judgment of the court, or pursuant to authority conferred by any law of this state or of the United States; or

(iii) Any person acting on behalf of the personal representative of the estate.

SECTION 4. This act shall take effect upon becoming law, the public welfare requiring it.